

UNITED STATES DISTRICT COURT
DISTRICT OF NEW HAMPSHIRE

Debora A. Dowlin

v.

Civil No. 09-cv-00043-JL

Community Alliance of
Human Services

**ORDER AFTER PRELIMINARY
PRETRIAL CONFERENCE**

The Preliminary Pretrial Conference was held in chambers on
October 13, 2009.

The Discovery Plan (document no. 29) is approved as
submitted, with the following changes:

- DiBenedetto disclosure deadline - **January 8, 2010**

Based on the discussions between the court and counsel at
the conference, the following are **stricken** without prejudice to
being reinstated on request if warranted by the evidence:

- the plaintiff's claims for negligence per se (Count 3),
respondeat superior (Count 4), res ipsa loquitur (Count 5), and
enhanced compensatory damages (Count 6). These doctrines of
liability and damages remain available to the plaintiff, however,
through Count 2.

- the following affirmative defenses: waiver, laches, and estoppel (12th affirmative defense).

The defendant will amend ¶¶ 5 and 9 of its Answer to clearly and comprehensively indicate its position with respect to the corresponding allegation (a formal amended answer is not necessary; a letter to plaintiff's counsel setting forth the amended ¶¶ 5 and 9 will suffice).

Summary Judgment. The parties and counsel are advised that compliance with Rule 56(e) and Local Rule 7.2(b), regarding evidentiary support for factual assertions, and specification and delineation of material issues of disputed fact, will be required.

Discovery disputes. Discovery disputes will be handled by the undersigned judge, as opposed to the Magistrate Judge, in the normal course. No motion to compel is necessary. The party or counsel seeking discovery-related relief should confer with adverse counsel to choose mutually available dates, and then contact the Deputy Clerk to schedule a conference call with the court. The court will inform counsel and parties what written materials, if any, should be submitted in advance of the conference call.

Customary motions to compel discovery, while disfavored by the undersigned judge, are nonetheless permissible. If counsel

prefer traditional discovery litigation to the conference call procedure set forth above, any such motion to compel should expressly request, in the title of the motion, a referral to the United States Magistrate Judge. Such referral requests will normally be granted.

SO ORDERED.

A handwritten signature in black ink, reading "Joe Laplante", written over a horizontal line.

Joseph N. Laplante
United States District Judge

Dated: October 13, 2009

cc: David N. Cole, Esq.
Christopher E. Grant, Esq.